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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10 027,433 | 12/21/2001 | Delwin Jackson | 5393 | 1883 |

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08/13/2003

Milliken & Company
P.O. Box 1927
Spartanburg, SC 29304

EXAMINER

BARR, MICHAEL E

ART UNIT

PAPER NUMBER

1762

13

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

ASB

Advisory Action

Application No.

10/027,433

Applicant(s)

JACKSON ET AL.

Examiner

Michael Barr

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-5, 8, 13-17.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 11.
10. ☐ Other: _____

Michael Barr
Primary Examiner
Art Unit: 1762

ADVISORY ACTION

1. Applicant's arguments, filed 7/30/2003, have been fully considered and reviewed by the examiner. The applicant has argued that the references do not teach adding the antimicrobial agent prior to the formation of the gel and is present during the heating step. The applicant also points out in the specification where discoloration occurs when the antimicrobial agent is added after the film formation. The examiner is not persuaded by the applicant's argument. The Oku reference clearly teaches that the antimicrobial agent is added to the glaze composition prior to any application to a substrate surface or addition of solvents or dispersants (see Col. 4, lines 26-32). Therefore, it would have been clearly suggested to one of ordinary skill in the art to add the antimicrobial agent to the sol gel glaze, as suggested by Oku and Deith, prior to application to the substrate and formation of the gel by addition of solvent, since it is shown by Oku that such addition to the glaze composition before substrate application and addition of solvents or dispersants is desired and known in the art. Also the showing in the specification is not persuasive as the showing only provides generalities about application of the antimicrobial agent after formation of the film on the substrate. There is no specific description of the comparative process in order to provide a sufficient showing of criticality. Furthermore, the showing does not compare to the closest prior art (Oku), which clearly wishes that the antimicrobial agent be included in the glaze layer and thus one skilled in the art would not be lead to apply the antimicrobial agent to the glaze onto of the film formation, as described in the comparison in the specification. A persuasive showing should provide comparisons to the claimed process with processes adding the antimicrobial agent after the sol gel formation and with the non-sol gel

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glazing process of Oku. The showing does not provided unexpected results in using the claimed sol-gel method over the method described by Oku. The remainder of the applicant's arguments have been addressed by the examiner in previous office actions.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Barr whose telephone number is 703-305-7919. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on 703-308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 or 703-305-5408 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Michael Barr
Primary Examiner
Art Unit 1762

MB
August 11, 2003